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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,995

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Daniel Grant

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EXAMINER

DEUBLE, MARK A

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/588,995	Applicant(s) GRANT ET AL.	
	Examiner MARK A. DEUBLE	Art Unit 3651	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/10/06</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the electronic means to communicate data to the cartridge attached to the underside of the load supporting surface of claims 12-13 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

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pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 12-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims recite an electronic means to communicate data to the cartridge that is attached to the underside of the load supporting surface, but the written description and drawings fail to provide any detail about what may provide the electronic means to communicate data or about how it may be attached to the underside of the load supporting surface without interfering with the conveyor slat. If applicant wishes to argue that such means and attachment arrangement would be known to one of ordinary skill in the art, it should be noted that this argument will be taken as evidence that the arrangement of such a means to communicate would have been obvious to one of ordinary skill in the art at the time of the invention.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "the load supporting surface" in line 2. There is insufficient antecedent basis for this limitation in the claim. It appears that claim 10 should depend from claim 9 to that proper antecedent basis for the claim is provided.

***Claim Rejections - 35 USC § 102***

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-6 and 9-14 rejected under 35 U.S.C. 102(b) as being anticipated by Hine (US 6,044,961).

Hine shows an endless conveyor 10 formed by a plurality of slats 12. Each slat has a main body 26 with a load supporting upper surface 78 that is transparent. An open ended cavity 42 is positioned between the upper surface of the main body and below the transparent surface for retaining a removable multi-media cartridge that may be in the form of a thin television screen or a computerized LCD panel (col. 4, ln. 67 and col. 6, ln. 1-7). The cartridge is securely retained in the cavity by friction fit with the upper surface 78 so that the upper surface protects the cartridge. The exposed surface of the cartridge shows a decorative pattern and/or indicia in the form of advertising data. While not shown, the conveyor would inherently include electronic means to communicate data to the cartridge thereby to remotely control and change the data displayed thereon at any given point in time because some means of providing images to the television screen or LCD panel is necessary for them to display information. Furthermore, because the cartridge is attached to the underside of the load supporting surface, at least part of the electronic means for communicating data to the cartridge would be attached to the underside of the load supporting surface as well. Thus, Hine shows all the structure required by claims 1-6 and 9-14.

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8. Claims 1-6, 8- 9 and 14 rejected under 35 U.S.C. 102(b) as being anticipated by Conklin, Jr. (US 6,186,314)).

Conklin shows an endless conveyor 10 formed by a plurality of slats 30. Each slat has a main body with a load supporting upper surface 42 that formed of a flexible transparent material like polycarbonate so as to have scratch resistant properties. An open ended cavity 38 is positioned between the upper surface of the main body and below the transparent surface for retaining a removable cartridge 44. The cartridge is securely retained in the cavity by pins 55 and friction fit with the upper surface so that the upper surface protects the cartridge. The exposed surface of the cartridge shows a decorative pattern and/or indicia in the form of advertising data. Thus Conklin shows all the structure required by claims 1-6, 8-9, and 14.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7-8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hine in view of the patents to Findlay (US 5,176,239; US 5,411,127, and US 5,439,090).

Hine shows generally all the structure required by the claims except for the tempered glass and scratch resistant surface of claims 7-8. However, all of the Findlay references teach that tempered glass is an art recognized equivalent with transparent plastics such as polycarbonate for covering advertising on an endless conveyor. Therefore the use of tempered

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glass is deemed to have been an obvious design choice absent some disclosure in the applicant's specification of some unusual advantage or result. *In re Kuhle*, 188 USPQ 7 (CCPA 1975).

In regard to claim 13, it should be noted that while it is unclear where the electronic means is attached in the apparatus of Hine, the attachment of the means to the underside of the load supporting surface is deemed to have been an obvious rearrangement of parts. . In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.); In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice).

11. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin in view of the patents to Findlay (US 5,176,239; US 5,411,127, and US 5,439,090).

Conklin shows generally all the structure required by the claims except for the tempered glass and scratch resistant surface of claims 7-8. However, all of the Findlay references teach that tempered glass is an art recognized equivalent with transparent plastics such as polycarbonate for covering advertising on an endless conveyor. Therefore the use of tempered glass is deemed to have been an obvious design choice absent some disclosure in the applicant's specification of some unusual advantage or result. *In re Kuhle*, 188 USPQ 7 (CCPA 1975).

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK A. DEUBLE whose telephone number is (571)272-6912.

The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark A. Deuble/  
Primary Examiner  
Art Unit 3651

md